

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MARK ANDY, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:13CV2150 CDP
)	
HEAT TECHNOLOGIES, INC.,)	
)	
Defendant.)	

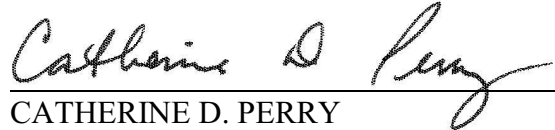
MEMORANDUM AND ORDER

This matter is before me on plaintiff's motion to amend its complaint to add claims of fraudulent inducement and negligent misrepresentation against defendant. Defendant has filed an objection to amendment, complaining of delay. The amendment is timely under the deadlines set out in the case management order, and defendant has failed to articulate any undue prejudice resulting from amendment. The claims of fraudulent inducement and negligent misrepresentation arise out of the same set of operative facts pled in the complaint, and amendment should come as no surprise since the possibility of bringing these claims was discussed with the parties during the scheduling conference held in my chambers. Fact discovery is set to close on August 25, 2014, but the parties may agree to extend fact discovery to November 21, 2014, which is the current deadline for the completion of all discovery. If additional time is needed for discovery because of amendment, the parties may file a joint motion to amend the case management order which proposes new deadlines for the Court's consideration. However, I will not deny leave to amend based on vague, perfunctory assertions of delay and prejudice. See Fed. R. Civ. P. 15(a)(2) ("The Court should freely give leave [to amend] when justice so requires."). Finally, I urge the parties to use their best efforts to resolve

this case during their upcoming mediation.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for leave to file an amended complaint [#41] is granted, and the amended complaint is deemed filed as of this date.

A handwritten signature in cursive script, reading "Catherine D. Perry", is written over a horizontal line.

CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 2nd day of July, 2014.